

**Minutes of Meeting
Grafton Planning Board
March 12, 2012**

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A regular meeting of the Grafton Planning Board was held on Monday, March 12, 2012 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman Bruce W. Spinney III, Vice-Chair Stephen Qualey, Clerk James Walsh III, Robert Hassinger, and Associate Member Sargon Hanna. Absent from the meeting was David Robbins. Staff present was Town Planner, Stephen Bishop and Assistant Planner Ann Morgan.

Chairman Spinney called the meeting to order at 7:00 p.m.

Chairman Spinney received unanimous consent to take Discussion Item 2-A out of order.

DISCUSSION ITEM 2-A – DPW FACILITY FEASIBILITY COMMITTEE

John Bechard, Chair of the Public Works Facility Feasibility Committee, reviewed the Board of Selectmen charge that they have been pursuing along with Weston & Sampson to find an appropriate site for the new DPW garage. Mr. Bechard stated they had examined five sites: the current DPW location on Upton Street; the Hennessey property on Old Westboro Road & Estabrook Road; the Ellis property off Upton Street; the property at 81 Rear Westboro Road; and the brush dump property on Millbury Street at Hudson Avenue. Mr. Bechard noted that the current DPW site was only one acre and surrounded by wetlands; the Ellis site was only 4 acres, not Town owned, and had poor access; the 81 Rear Westboro Road site was 22 acres but mostly wetlands and had poor access; and the brush dump site falls into the WSPD zoning district due to its proximity to the river and that fuel tanks are not allowed in that zoning district. Mr. Bechard concluded that the Hennessey property on Old Westboro Road was the best site in the Committee's opinion because the parcel abuts the Mass Pike with few abutters; the parcel is 46.99 acres in an R-40 zoning district, which allows the use with a special permit; and the facility will currently only require a portion of the parcel, allowing for future expansion or other Town land needs.

The Planning Board discussed the feasibility of the properties with Mr. Bechard, requesting the Committee come back before the Board with a rough drawing of the project along with all information of what will be required to secure this location.

Mr. Bechard informed the Board that he will be recommending to the Town Administrator and the Board of Selectmen that they have completed reviewing the sites, discussed the site choices with the Planning Board, and will return to the Planning Board when they have more information to submit regarding the project.

ACTION ITEM – 1-A – APPROVAL NOT REQUIRED PLAN (ANR 2012-1) MARK J. & MAUREEN E. WOJNAR – PROVIDENCE ROAD & KING STREET

Mr. Bishop reviewed the submitted ANR plan with the Board, noting the applicant's intent was to construct a barn on the lot, that the plan meets the requirements of the ANR provisions and that he recommends endorsement.

MOTION by Mr. Hassinger, **SECOND** by Mr. Walsh, to approve the ANR plan and to authorize the Town Planner to endorse the plan on behalf of the Planning Board. **MOTION** carried unanimously 4 to 0.

CONSIDER DECISION – SPECIAL PERMIT (SP 2012-1) SANDRA J. SHIELDS – 211 PROVIDENCE ROAD

Mr. Bishop informed the Board that the decision complies with the intent coming from the public hearing for 12 alpaca and 12 chickens, and adding that it is structured similar to the Wilson decision previously created for the goats on Brigham Hill Road. Mr. Bishop also noted the decision contains major provisions for the agreement for the cria, the 12 chickens allowed through the special permit process and the submitted manure management plan.

Chairman Spinney appointed Mr. Hanna as a voting member for this Special Permit.

MOTION by Mr. Walsh, **SECOND** by Mr. Qualey, to make favorable Findings for F-1 through F-18. **MOTION** carried unanimously 5 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Walsh, to make favorable Findings for F-19 through F-36. **MOTION** carried unanimously 5 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to grant Waiver W-1 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, as well as consideration for the size and scope of the project. **MOTION** carried unanimously 5 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Walsh, to grant Waivers W-2 & W-3 after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, as well as consideration for the size and scope of the project. **MOTION** carried unanimously 5 to 0.

MOTION by Mr. Hassinger, **SECOND** by Mr. Walsh, to grant Special Permit (SP 2012-1) with the Findings and Conditions as discussed and amended. **MOTION** carried unanimously 5 to 0.

SPECIAL PERMIT SP 2012-3 ALFREDO MENDES, TRUSTEE OF THE MENDES REALTY TRUST (APPLICANT/OWNER) – ALLOW FOR A FOURTH LOT TO HAVE ACCESS OFF A COMMON DRIVEWAY – 8 PUTNAM LANE

Mr. Walsh read the legal notice and Chairman Spinney opened the public hearing. Present for the hearing were Attorney Robert Knapik, representing Alfredo Mendes; Alfredo Mendes, Paul Mendes, and Attorney David Himmelberger, representing the abutters of 8 Putnam Lane.

Mr. Bishop informed the Board there was correspondence from Town Counsel laying out the history of this issue for this property along with recommendations for the Board's consideration of the testimony presented.

Attorney Knapik reviewed with the Board the history of the Mendes issue stating Mr. Mendes was first denied his building permit application by the Building Inspector; then after appealing the denial to the ZBA, they overturned the decision of the Zoning Enforcement Officer; the abutters then took the ZBA appeal to Land Court, where both parties eventually arrived at a settlement proposal of the access from the existing Common Driveway rather than over the wetlands area from Merriam Road. Attorney Knapik stated further that since the Town By-Law limits Common Driveway access to three lots, Mr. Mendes was directed by the ZBA to apply for a Special Permit through the Planning Board to allow a fourth lot to access the existing Common Driveway. Attorney Knapik added that Mr. Mendes is prepared to provide the appropriate screening and buffering for the abutting properties, noting the area will be compatible with the abutting area. Attorney Knapik stressed that the abutters are not only not opposed, but support this option, and that this option will protect the cultural & scenic landscapes as there will be no need to traverse the wetlands. Attorney Knapik also requested the Board grant a waiver from the Site Plan requirements, stating all of the plan information has been submitted previously.

Mr. Hassinger remarked that he is very familiar with the case from previous years, that some submitted information received late today has not been considered and that this request has been denied previously. Mr. Bishop noted that the previous denial was for the Modification of the Definitive Plan and not a Special Permit application, adding that the timeline for Mr. Mendes's applications is addressed in the correspondence from Town Counsel, along with Counsel's specific recommendations to the Planning Board for their consideration in this matter.

Mr. Hassinger emphasized that there are strong reasons why the subdivision looks the way it does, and that it was a very long, difficult process that led to the approval. Mr. Hassinger further questioned whether Lot 11 is actually a buildable lot and if the Conservation Commission has ever issued a Determination or Order of Conditions for the property.

Attorney David J. Himmelberger informed the Board that he was representing a number of homeowners abutting or adjacent to the 8 Putnam Lane property, all of whom support the issuance of the Special Permit requested by Mr. Mendes, for all the reasons previously stated. Attorney Himmelberger acknowledged that it is the Board's discretion, not obligation, to issue this Special Permit and that it will result in benefiting not only the abutters, but also the Town residents who benefit from the continued views of the open space off Merriam Road. Attorney Himmelberger noted additionally that his clients would be willing to withdraw their ZBA appeal to the Land Court if the special permit is granted by the Planning Board.

Mr. Walsh asked Attorney Knapik if the lot was a buildable lot.

Chairman Spinney continued to discuss the testimony with Board members and proceeded to poll members as to how they would consider voting on the issue before them. Mr. Hanna stated he would vote "pro", since he typically backs the developer. Mr. Qualey pointed out there were 3 scenarios to consider: access from Merriam Road over the wetlands, which he considered a negative idea; off Putnam Lane encircling several house lots, which he considered a negative idea also; and to grant a special permit to allow a fourth lots to access the existing Common Driveway, which he considered the best case scenario. Mr. Qualey added that his sole concern for this choice was an adequate turning radius for the fire and emergency apparatus. Mr. Walsh expressed a favorable vote also, specifically for the neighbor's situation, but also had the same concerns as Mr. Qualey with regard to the emergency vehicle safety.

Chairman Spinney stated the consensus of the Board seemed to be for the people that actually live within the subdivision.

Mr. Hassinger continued to defend the language of the By-Law, adding that the Town needs to enact as law what is already a By-Law in order to control the way subdivisions are laid out. Mr. Hassinger also noted that no scenario has been discussed if the lot is not a buildable lot.

Attorney Knapik and Attorney Himmelberger continued to request the Board use their discretion to approve the Special Permit before them.

Chairman Spinney received unanimous consent to suggest the applicant request to continue the public hearing to allow for the submission of additional information, specifically the previous plans and decisions issued for this property and the plan currently proposed by the developer.

Leah Doret of 5 Putnam Lane expressed concerns of not allowing the house at all, but if the house is allowed through the Special Permit she would agree with the final plan discussed.

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to accept the applicant's written request to continue the public hearing to March 26, 2012 at 7:30 p.m.

Chairman Spinney designated Mr. Hanna as a voting member for this special permit.

MOTION carried unanimously 5 to 0.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to approve the open session minutes of February 27, 2012 as drafted.

DISCUSSION: Mr. Walsh noted additional information to be included in the minutes.

AMENDED MOTION by Mr. Hassinger, Second by Mr. Qualey, to approve the open session minutes of February 27, 2012 with the corrections noted. **MOTION** carried unanimously 5 to 0.

STAFF REPORT

Mr. Bishop reminded the Board that the first public meeting regarding the Village Mixed Use for the South Grafton Streetscape project will be held at the South Grafton Community Center at 9:00 a.m.

Mr. Hassinger added that Bill Robidoux will be covering the event for a cable press release.

Mr. Hassinger informed the Board of the program on Good Health in City Development that he attended at the Citizen Planner Training Collaborative. Mr. Hassinger remarked that the program covers issues on walk ability and the impact on public health that should be brought forward to expand the Board of Health opportunities.

Mr. Walsh announced the Agricultural Commission will be meeting on March 14 at 7:00 p.m. in Conference Room B regarding the Chickens by Right By-Law and will be hosting a workshop also later this month.

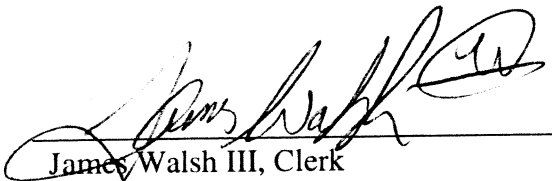
MOTION by Mr. Hassinger, **SECOND** by Mr. Qualey, to adjourn the meeting. **MOTION** carried unanimously 5 to 0.

The meeting was adjourned at 9:00 p.m.

EXHIBITS

- **Action Item B: Consider Decision**
- Special Permit / Site Plan Approval (SP 2012-1), Sandra J. Shields (Applicant / Owner), Raising and keeping of livestock (alpacas and chickens) on less than 5 acres of land at 211 Providence Road; 9 pages.
- Correspondence, Sandy Shields, Manure Management Plan, no date, received March 5, 2012, 1 page.
- **Item 5: Draft Meeting Minutes**
 - Grafton Planning Board, February 27, 2012, 7 pages.
- **Public Hearing 9A: SP 2012-3 Alfredo Mendes, Trustee of the Mendes Realty Trust (Applicant / Owner), Common Driveway, 8 Putnam Lane, Grafton.**
 - Application for Special Permit, dated February 15, 2012 and received February 16, 2012, 1 page.
 - Application for Site Plan Approval, dated February 15, 2012 and received February 16, 2012, 1 page.
 - Correspondence from the Law Office of W. Robert Knapik, 8 Putnam Lane, Grafton Massachusetts, 10 pages.
 - Plan, Septic System Design, Kevin Dooley, Lot 11 Miscoe Farms, Grafton, Massachusetts; prepared by Wilson Associates Engineering & Survey, Inc., 11" by 17", black & white, dated May 12, 2003, 1 sheet.
 - Project Review Comment Form, Conservation Commission, received February 16, 2012, 2 pages.
 - Memorandum from the Town Administrator on behalf of the Board of Selectmen, project review comments, Alfredo Mendes, 8 Putnam Lane, dated and received February 24, 2012, 1 page.
 - Project Review Comment Form, Zoning Board of Appeals, received March 2, 2012, 1 page.

- Correspondence, Law Office of David J. Himmelberger, Application for Special Permit – 18 Putnam Lane – Grafton; dated and received March 9, 2012, 6 pages.
- Zoning Determination from the Zoning Enforcement Officer, dated February 1, 2012, 1 page.
- Legal Notice regarding zoning variance, 8 Putnam Lane, Case #2011/773, Grafton Zoning Board of Appeals, dated Wednesday, November 30, 2011, 1 page.
- Petition to the Zoning Board of Appeals, submitted by Alfredo Mendes, Trustee, The Mendes Realty Trust, received by the Zoning Board of Appeals on November 4, 2012, 1 page.
- Correspondence to John P. Carney, Chairman, Grafton Zoning Board of Appeals; Law Office of W. Robert Knapik, dated October 31, 2011, 5 pages.
- Memorandum from Grafton Town Counsel, Mendes Special Permit request, dated March 9, 2012, received March 12, 2012, 3 pages.



James Walsh III, Clerk